

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Jeffrey Wayne Thibodeau,

Petitioner,

v.

Civil No. 06-458 (JNE/SRN)  
ORDER

Terry Carlson,

Respondent.

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (2000). In a Report and Recommendation dated October 24, 2007, the Honorable Susan Richard Nelson, United States Magistrate Judge, recommended that the petition be denied and that this action be dismissed with prejudice. Petitioner responded to the Report and Recommendation. Based on a de novo review of the record, the Court adopts the Report and Recommendation. *See* D. Minn. LR 72.2(b).

An appeal may not be taken from a final order denying a petition under section 2254 without a certificate of appealability (COA). 28 U.S.C. § 2253(c)(1)(A) (2000); Fed. R. App. P. 22(b)(1). Courts cannot grant a COA unless the applicant “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). Reasonable jurists would not find the rejection of Petitioner’s claims debatable. The Court therefore declines to grant Petitioner a COA. *See Slack*, 529 U.S. at 484.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Respondent’s Motion to Dismiss [Docket No. 15] is GRANTED.
2. The Petition for Writ of Habeas Corpus [Docket No. 1] is DENIED.
3. This action is DISMISSED WITH PREJUDICE.

4. Petitioner is not entitled to a certificate of appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 6, 2007

s/ Joan N. Ericksen  
JOAN N. ERICKSEN  
United States District Judge